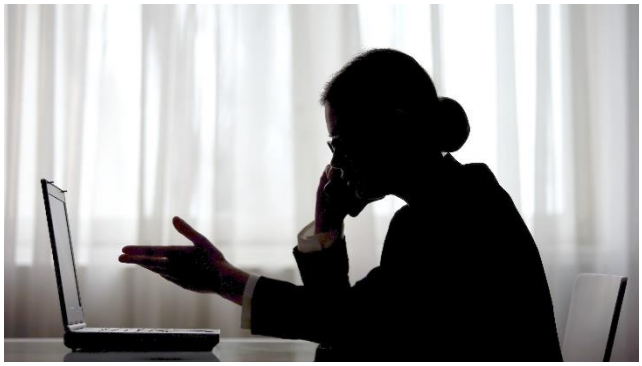
October 26, 2023

Supervisor Peskin's Bogus Rationale Based on Lies

Sudden Death of Remote Public Comment

**Two Remote Callers Spoke Offensively for a Combined 26 Seconds.
Each Were Immediately Cut Off for Violating Board Rules.
Peskin Lied to Wrongly Punish San Franciscans.**

by Patrick Monette-Shaw



Remote Participation in City Government came to an abrupt end on October 17, taken away despite state-of-the-art technology being used by the majority of San Franciscans to make their lives easier and better. Having lost remote Internet connectively, we're sidelined — reduced to sitting in the shadows.

Let this be a lesson.

Supervisor Aaron Peskin, abetted by seven other District Supervisors, decided fighting antisemitism with anti-democracy was justified. He prevailed. It's challenging to *not* overstate how bonkers this was.

It was sad news, because antisemites and racists essentially prevailed, shutting down democratic remote participation in City government. Anti-democratic forces were alive and well — inside City Hall!

> **"Antisemites and racists prevailed, shutting down democratic remote participation in City government. It was as if Peskin was fighting fire with a blow-torch."**

It was as if Peskin was fighting fire with a blow-torch.

San Franciscans ability to provide remote public comment during public meetings died October 17. There's concern that sudden death may soon spread like the plague from the Board of Supervisors to other City policy bodies in rapid order.

America's democracy was founded on the precept that the citizenry has a "*right-to-know*" what our government is doing in our names, and on our behalf. San Franciscans clearly prefer retaining our rights to provide public comment on what our City government is doing for us. San Franciscans have ***not*** ceded to the San Francisco Board of Supervisors authority to so restrict our public voices at the Board's whim as an over-reaction to their palpable annoyance with public comment violators, or at their pleasure.

> **"Peskin over-reacted on September 26 — *within a mere 30-second period* — deciding to permanently end taking remote public comment after two remote callers purportedly used antisemitic speech."**

Nonetheless, Supervisor Peskin over-reacted on September 26 — ***within a mere 30-second period*** — during a full Board of Supervisors meeting by deciding to permanently (but potentially only temporarily) end taking remote public comment after two remote callers purportedly used antisemitic speech that violated Board Rules. Peskin decided instantly and on-the-spot his remedy would be to end remote public comment for everyone — except, we later learned (below), people with disabilities who are willing to publicly disclose details of the nature of their disability.

That effectively punishes hundreds, if not thousands, of San Franciscans who want to participate remotely in our local government, whether or not they have a disability. And it will force those who **do** have a disability to have to self-disclose their disability in advance by seeking burdensome, special "*reasonable accommodation*" exceptionalism to call in remotely. Or else face the burden of having to travel to City Hall to attend meetings in person.

You can safely bet that the new draconian procedures will rapidly spread to other Boards, Commissions, and other policy body meetings throughout the City, and remain in effect for what's likely to be a very long period of time. Will they each have Inquisition Teams [see ***Postscript***]?

On October 17, Peskin lined up seven of the other ten Supervisors to vote to pass his Motion to suspend remote public comment indefinitely, knowing the Motion needed eight votes to pass.

He got his eight votes. Only Supervisors Dean Preston (D-5), Joel Engardio (D-4), and Myrna Melgar (D-7) voted to oppose Peskin's anti-democratic legislation in his mad dash.

Triggering Peskin's Ire

At the end of the September 26 full Board meeting, Peskin's ire was triggered.

The Board of Supervisors adopted somewhat recently — as did San Francisco's Health Commission, and perhaps other City Boards and Commissions — a Resolution that they would ***begin*** their meetings by reading the "*Ramaytush* Ohlone Land Acknowledgement:"

> "*We acknowledge we are on the unceded ancestral homeland of the* Ramaytush *Ohlone who are the original inhabitants of the San Francisco Peninsula. As the indigenous stewards of this land and in accordance with their traditions, the* Ramaytush *Ohlone have never ceded, lost nor forgotten their responsibilities as the caretakers of this place, as well as for all peoples who reside in their traditional territory. As Guests, we recognize that we benefit from living and working on their traditional homeland. We wish to pay our respects by acknowledging the Ancestors and Relatives of the* Ramaytush *community and by affirming their sovereign rights as First Peoples."*

As far as is known, the Land Acknowledgement may be the only reparations "*paid*" to the *Ramaytush* Ohlone. That scrap of paper isn't worth much and won't build "*generational wealth*" across subsequent generations of Indigenous tribe Peoples.

"The Land Acknowledgement may be the only reparations '*paid*' to the *Ramaytush* Ohlone. That scrap of paper isn't worth much and won't build '*generational wealth*' for Indigenous Peoples."

Since my own ancestry includes an admittedly scant 1/64th Native American Indian roots, I find the *Ramaytush* Ohlone Land Acknowledgement somewhat of an insult. It certainly never helped my family build "*generational*" wealth.

Our Board of Supervisors began its September 26 meeting by reading the "*Ramaytush* Ohlone Land Acknowledgement" before it was scheduled to reach Agenda Item #28, "*Accepting the Final San Francisco Reparations Plan*," a massive 398-page document from the "*African American Reparations Advisory Committee*." The document is thought to have addressed only reparations to San Francisco's African American residents. Not reparations to the *Ramaytush* Ohlone.

"Before hearing the African American Reparations plan at Item #28, the Board took Agenda item #26, general *Public Comment*.

That's when Peskin's ire was set aflame."

But before hearing the Reparations plan at Item #28, the Board took Agenda item #26, general *Public Comment*, first. Somehow, a caller claimed to have heard a reference to the Reparations Plan, even before reaching Agenda Item #28.

At the tail end of the Public Comment period Peskin's ire was set aflame.

26-Second Trouble on September 26

The last two remote Public Comment callers made offensive remarks that violated Board rules, visibly angering Peskin.

"The first offender, Mr. 'Kater,' wrongly claimed '*all***' slave ships that brought Black slaves to America were Jewish-owned ships, so white Europeans shouldn't have to pay reparations.**

He was allowed to speak for 20 seconds before his remote connection was abruptly cut off."

A partial verbatim transcript of the Public Comment period is available on-line. [**Warning:** The two speakers' unedited offensive remarks were transcribed verbatim.]

The first offender, Mr. "Kater," spoke at 3:12:30 (hours:minues:seconds) on tape and volunteered his name, transcribed in the link above. (He may have used an alias, as is anyone's right.) He didn't use actual offensive or obscene words *per se*, but asserted white American's of European ancestry shouldn't have to pay reparations, wrongly claiming "**all**" slave ships that brought Black slaves to America were Jewish-owned ships.

Kater was allowed to speak for just 20 seconds of the three minutes allotted to each speaker before his remote connection was abruptly terminated — within a total of 27 seconds. Which demonstrates *the Board of Supervisors currently has the technical ability to cut off and silence offensive speakers almost instantly*!

Kater, of course, was wildly wrong, as widely-respected Jewish scholars have researched and well documented. Kater's assertion Jewish people owned ***all*** slave ships was factually incorrect.

Jewish Scholars Research

Various Jewish scholars have acknowledged the ***minimal*** role of Jews in the African, British West Indies, and Caribbean slave trades in the mid-1560's to the 1700's. One scholar, Jonathan D. Sarna, edited a book titled "*Jews and the Civil War: A Reader*." Sarna is a leading commentator on American Jewish history, religion and life, and is the only American Jewish historian ever elected to the American Academy of Arts and Sciences.

"Various Jewish scholars have acknowledged the *minimal* role of Jews in the African, British West Indies, and Caribbean slave trades.

Finkelman concluded Faber's data made the point over and over again Jews were only *minor* players in the African slave trade."

Part 1 of Sarna's book is titled "*Jews and Slavery*." Chapter 1 contains an essay by Seymour Drescher titled "*Jews and New Christians in the Atlantic Slave Trade*." One published review of the Drescher chapter notes that across the two centuries of the Atlantic slave trade between the years 1500 and 1700, there were three phases, which resulted in approximately 8.3 million Africans being transported to the New World and sold as slaves. The Drescher extract noted:

> "*… the slave trade opened up transoceanic niches of entrée and refuge that gave New Christians an initial advantage in human capital over other merchants, but . It also suggests that Jewish merchants were* **marginal collective actors** *in most places and during most periods of the Atlantic system*." [emphasis added]

[**Note:** "*New Christians*" appears to reference so-called descendants of Iberian Jews who converted to Christianity during or after the Iberian Inquisition in 1483.]

That's not the only scholarly research acknowledging Jewish merchants played only ***marginal*** roles during the slave trade.

Eli Faber's book, "*Jews, Slaves, and the Slave Trade: Setting the Record Straight*" — was written, in large part, to counter lies in a widely debunked Nation of Islam book, "*The Secret Relationship Between Blacks and Jews*" (1991), which contained hysterical, inaccurate, and *antisemitic* canards — clearly documents that there were almost no Jews involved in the African slave trade.

Harvard's Henry Louis Gates, Jr. condemned the "*The Secret Relationship*" as "*the bible of the new anti-Semitism*," but as Finkelman noted, the book has been widely read and believed by many African-Americans because published by the Nation of Islam.

A Johns Hopkins University Press journal published a review of Faber's book by Paul Finkelman, a *Professor of Law Emeritus* at Albany School of Law. Finkelman concluded Faber's data made the point over and over again Jews were only ***minor*** players in the African slave trade, although some slaves were indeed transported on Jewish-owned ships, or on ships Jewish merchants may have held a financial interest.

"Kater's 20-second remote-caller comments on September 26 were, of course, wildly wrong.

Whether Kater's comments rose to a working definition of *antisemitism* may be an open question for Jewish scholars."

Kater's 20-second remote-caller comments on September 26 were, of course, wildly wrong: Not *all* of the ships that brought slaves to America were owned by Jews. Only a very small percentage of slaves — not ***all*** slaves, as Kater tried palming off — were brought here by Jewish merchants.

The International Holocaust Remembrance Alliance's "*Committee on Antisemitism and Holocaust Denial*" adopted a working definition of *antisemitism* during a Plenary session held in Budapest in May 2016.

Whether Kater's comments rose to that working definition of *antisemitism* may be an open question for Jewish scholars, not Supervisor Peskin, San Francisco's Board of Supervisors, San Francisco City Attorney David Chiu, or Mayor London Breed.

Second Offensive Caller

The second offensive caller chose to remain anonymous by not stating his name. That's allowed, because under California's Public Records Act, the Brown Act, and San Francisco's Sunshine Ordinance people are allowed to provide anonymous testimony orally or in writing, and anonymously request public records. That anonymity is enshrined in State law. Anonymity isn't a crime, or a sign of cowardice. Some people do so for entirely legitimate reasons.

Unfortunately, the second [last] caller on September 26 used a derogatory slang term for Jews, followed by the *"N"-word*, which nearly everyone — including me — finds grossly offensive. I have both Black and Hispanic multi-ethnic nieces and nephews; and find that word personally offensive.

"The second [last] offensive caller on September 26 used a derogatory slang term for Jews, followed by the '*N*'-word, which nearly everyone — including me — finds grossly offensive."

Fortunately, that last caller received a mere **six seconds** of airtime before his remote phone connection was also abruptly disconnected by either Clerk of the Board Angela Calvillo, SFGOV-TV staff, or staff of San Francisco's Department of Technology, who were *quick-on-the-draw* to sever his phone connection.

"The last caller received a mere six seconds of airtime before his remote phone connection was also abruptly disconnected.

So, the meeting was flawed by two callers for a total of just 26 seconds before quick action was taken to shut them up. It's clear the City already has the technical ability to get this done, without needing changes to State law."

So, the meeting was flawed by two callers for a total of just 26 seconds before quick action was taken to shut them up. It's clear the City already has the technical ability to get this done, without needing changes to State law, as Peskin now wrongly claims.

As well, the Clerk of the Board's draft September 26 meeting minutes show the last two callers were effectively dealt with; page 14 of the minutes reports:

- [Second to-last-]*Speaker; shared concerns regarding the Reparations Plan. (This member of the public made a comment that violated the City's policy on discriminatory or harassing remarks; therefore, Clerk Calvillo discontinued their time.)*

- [Last-]*Speaker; spoke on various concerns. (This member of the public made a comment that violated the City's policy on discriminatory or harassing remarks; therefore, Clerk Calvillo discontinued their time.)*

"*Discontinued their time*" is a polite way of saying their remote phone connections were quickly snipped.

Peskin's Mad Dash

"It took Peskin just 24 seconds to announc2 his instantaneous decision to end taking all remote call-in testimony."

As the verbatim transcript details, it took Peskin just 24 seconds between when the Clerk cut off the first speaker's phone connection at 3:12:50 on audio, the last caller being cut off at 3:13:13, and Peskin announcing his instantaneous decision to end taking all remote call-in testimony. Peskin stated at 3:13:14 he would introduce a change to the Board's rules.

"We learned only *after* the legislation was passed by the full Board on October 17 that a new '*Inquisition Screening Group*' will force people to disclose the root cause of their medical disabilities."

Cocky about his 24-second knee-jerk decision, Peskin crashed through having a Deputy City Attorney write up proposed legislation within three days (by September 29) to amend Board Rules of Order 1.3.3, *Remote and In-Person Public Comment* to discontinue and eliminate taking remote public comment at all meetings of the Board of Supervisors and at its various Committee meetings. He claimed the process for accommodating exceptions for people with disabilities would be forthcoming.

We learned only *after* the legislation was passed by the full Board on October 17 that a new "*Inquisition Screening Group*" will force people to disclose the root cause of their medical disabilities (see below).

Peskin's legislation to amend the Board's Rules of Order was crammed through writing, and rapidly placed on the Rules Committee October 16 meeting agenda.

Peskin's Lies: October 16 Rules Committee

By the time October 16 Rules Committee rolled around, at least 9 members of the public had submitted written public testimony in the background Public Correspondence files for Agenda Item 4, all opposing Peskin's legislation to end remote public comment. The written testimony prominently included San Francisco's Sunshine Ordinance Task (SOTF) remarks, strongly opposing the proposed Board Rules change.

In my own written testimony I noted I strongly oppose antisemitic comments being espoused in any setting, especially during any public meetings. I noted Peskin's proposed legislation ending remote comment was an over-reaction and goes too far, even if Peskin is right to be greatly offended by displays of antisemitism.

I noted eliminating remote public comment will **not** fix the problem of speakers attending in person to make repugnant, or antisemitic comments. I agreed with the SOTF **greater care should be taken to immediately cut off the microphone of speakers attending in person** who make antisemitic remarks. That's the quickest and most effective means to silence abhorrent abuse of Free Speech. [I only learned later by reviewing the September 26 meeting minutes and listening to the audio of the hearing the two remote caller's "*microphones*" (phone connections) **had**, in fact, been relatively immediately cut off.]

I also wrote that curtailing remote public comment is an over-reaction to a probable single occurrence of antisemitic comments. Eliminating remote call-in for a single occurrence of offensive public comment is like taking an atomic bomb to kill a poisonous rattlesnake (i.e., "*overkill*" for the sake of overkill).

Not to be outdone by the lies of the two miscreant public callers on September 26, Peskin appears to have chosen to lie himself during the October 16 Rules Committee hearing.

"Not to be outdone by the lies of the two miscreant public callers on September 26, Peskin appears to have chosen to lie himself during the October 16 Rules Committee hearing."

First up, Peskin essentially deflected (OK, lied) at about 0:32:49 on audiotape when the Rules hearing began, saying he had been "*reluctant*" to introduce the change to eliminate remote public comment. As shown above, there was no reluctance on his part, given that within 24 seconds on September 26 he raced hell-bent to an on-the-spot, premature conclusion to end remote comment, ostensibly to punish two miscreant remote callers.

Peskin bemoaned having callers hide behind anonymity. That may have also been a falsehood, since one of the speakers provided his name (perhaps an alias) while the other one didn't provide a name. But it's a virtual certainty that the Webex remote videoconferencing system adopted by the City during the pandemic displays phone numbers of remote callers.

Then, at 0:41:38 on audio on October 16, Peskin suggested San Francisco would need to lobby the California Legislature to obtain changes to State law, specifically the Brown Act. Peskin neglected to mention California's 2023–2024 legislative session is well underway, and he would need to find sponsors in both the Senate and Assembly to carry any such legislation. It's doubtful legislative changes could be developed in the current legislative cycle, which typically takes a year or longer to accomplish.

It would involve a very high bar to *eliminate* provisions in State law allowing for anonymous written and oral public comment.

Then, at 0:42:22 on audiotape, Peskin claimed seven years ago the Clerk of the Board had placed a "*query*" with San Francisco's Department of Technology about what it might cost to implement technology to develop a delay feature for public comment during live SFGOV-TV cable TV broadcasts of Board meetings. He claimed the estimate provided to Clerk Angela Calvillo came in with a $10 million price tag.

That's ludicrous. There's *already* a delay mechanism broadcasting over SFGOV-TV (if not in Board Chambers). If you call in and provide remote public comment by phone, you can hang up ending your call, and then hear it delayed on broadcast cable TV several seconds later. So, Peskin deliberately misled viewers and his Board colleagues about delay measures.

Given the Clerk of the Board terminated phone connections cutting off the two abusive callers on September 26, SFGOV-TV or Webex already appears to also have "*kill switch*" technology in place during actual meetings being broadcast, making a $10 million expenditure a totally bogus rationale (i.e., another "*lie*"). And it's a virtual certainty San Francisco's City Attorney's Office has given its blessing to cut the connections of remote callers under the color of existing law, or Calvillo's team wouldn't be doing it — risking potential lawsuits against the City and expensive litigation.

The City doesn't appear to need a change to the Brown Act to terminate abusive callers, since the Board is already doing so within the City's existing legal authority.

For good measure, at 0:42:12 on audio Rules Chairperson Matt Dorsey whined on October 16 he wants to "*remove the cloak of anonymity*." Good luck, Dorsey, getting the State legislature to remove provisions in State law providing public speakers' anonymity who have legitimate reasons to protect their personal identities. Just ask judges and witnesses involved in Trump's various felony prosecutions about protecting their identities.

"Peskin claimed the Board might need to implement technology to develop a delay feature for public comment during Board meetings, perhaps with a $10 million price tag.

That's ludicrous. There's already a delay mechanism broadcasting over SFGOV-TV.

Given the Clerk of the Board terminated phone connections cutting off the two abusive callers on September 26, there's already '*kill switch*' technology in place during actual meetings being broadcast, making a $10 million expenditure totally bogus."

Because remote testimony was still permitted, Dorsey opened public comment at about 0:44:49 on audiotape.

Eloquent Opposition

When public comment began on October 16, 34 speakers ended up providing oral testimony, including four people who spoke in person in Board Chambers and 30 who called in. All 34 opposed Peskin's legislation. Not one caller, and none of the nine written testimony, supported Peskin's nonsense. The testimony demonstrated how passionately San Franciscans feel about retaining their rights to participate remotely in policy-making of our Board of Supervisors.

"When public comment began on October 16, 34 speakers ended up providing oral testimony, including four people who spoke in person in Board Chambers and 30 who called in. All 34 opposed Peskin's legislation."

Most notably, the fourth in-person speaker was a brave City employee, but not stating his name, and didn't explicitly state he was speaking as a private citizen on his personal time, not as an employee.

The speaker indicated it was "*hard to come up here as a City employee*." He indicated so much money has already been spent implementing the remote call-in capabilities, apparently on the Webex system adopted at the start of the COVID pandemic in March 2020. He testified some City Boards and Commissions had just installed their hybrid remote-comment systems installed the week before.

He indicated the City had just spent another $100,000, which would go to waste. He indicated that with the new systems:

> "*It's very simple.* [Currently,] *we can cut people* [callers] *off. Period*."

"The fourth in-person speaker was a brave City employee, who stated that with the new systems, '[Currently,] *we can cut people* [callers] *off. Period*.'

There was smoking-gun evidence Peskin's anti-democratic legislation was completely unnecessary. The City *already* has the technology to cut off offensive callers!"

There was smoking-gun evidence Peskin's anti-democratic legislation was completely unnecessary. The City already has the technology to cut off offensive callers! Peskin doesn't need a one- to two-***year*** period in which to beg California's legislature develop amendments to the Brown Act, or other State laws!

In the end, taking impassioned testimony from the additional 30 remote callers and the expert testimony of one brave City employee had absolutely zero effect. What other proof did Peskin and the Rules Committee need?

The Rules Committee turned a blind eye ***and*** a deaf ear. Dorsey took a roll call vote on a motion to forward a recommendation to the full Board the next day as a Committee Report. He, and Rules Committee members Ahsha Safai and Matt Dorsey, voted unanimous approval to forward Peskin's legislation.

Full Board Hearing October 17

Before the full Board hearing on October 17, another 13 written letters had been submitted to an additional "*Public Correspondence*" background file. All 13 also opposed Peskin's blowtorch. No oral public testimony was taken; oral testimony is only allowed during Committee-level hearings.

At the full Board meeting, Peskin opened by noting on audiotape (0:27:14) all Supervisors were in attendance on September 26 when "*... a number of ... white supremacists participated remotely, as those cowardly individuals like to hide in the anonymity of the Internet and remote public comment …*".

By a "*number of*," Peskin meant "*two*." He expected the other 10 Supervisors to ignore that 1) One of the callers identified himself by name, so wasn't cowardly by hiding behind anonymity, and 2) Ms. Calvillo had cut off both remote speakers within just seconds each, deplatforming both.

At 0:28:18, Peskin expected all Supervisors believe his con California's Legislature needs to amend the Brown Act, and perhaps other State laws, to develop a State-level legislative "*fix*," saying "[changes] might *allow us to block* [phone] *numbers from sources of hateful speech* [made by previous known callers]."

> **"Peskin expected all Supervisors believe his con that California's Legislature needs to amend the Brown Act to '*allow us to block* [phone] *numbers from sources of hateful speech* [made by previous known callers]'."**

That's nonsense. Which no Supervisor should have swallowed. All 11 Supervisors apparently developed amnesia overnight that a City employee testified just a day before at Rules the Board already has systems in place to cut off or mute remote and in-person speakers.

Doesn't Peskin understand really determined White Nationalists and antisemites who learn their phone numbers would be electronically *blocked* would just migrate to unknown or untraceable burner phones or different phone numbers (assuming they aren't ***already*** using burner phones)? Does Peskin also expect the State Legislature to outlaw burner phones, too, in his *Don Quixote-like* quest to stop antisemitic callers?

> **"Doesn't Peskin understand determined White Nationalists and antisemites who learn their phone numbers were blocked electronically would just migrate to unknown or untraceable burner phones? Does he also expect the State Legislature to outlaw burner phones, too?"**

After Peskin made his opening remarks, he called on three other Supervisors who signaled they wanted to comment prior to the Board's Clerk taking a Roll Call vote. Supervisors Dean Preston, Joel Engardio, and Myrna Melgar spoke in opposition, followed by Supervisor Shamann Walton.

At 0:34:45 on audiotape, Supervisor Walton falsely tried to pull the wool over our eyes, claiming:

> "*… I just want to be really clear that this will* **not** *have a negative effect on people with disabilities, it will* **not** *have a negative effect on seniors. And, you know, it's not just about the racists and demonizing comments that people make when they call in. … But for me, it's also about the fact I don't* **want** *to represent people from Florida or Texas in their communities here in the* [San Francisco] *Board of Supervisors, and people have taken advantage of that through remote public comment. …*

> *Really just want to make sure that people understand we are* **not** *eliminating remote public comment for* ***people who have disabilities****, for* ***people who are seniors****, and for* ***people who are not capable of coming in*** *to* these [Board] *Chambers* [to provide in-person comment] …
>
> *So, I want to make clear on that and want to make sure that anyone who creates that narrative* [that remote public comment for seniors and those who are incapable of attending in Board Chambers was being eliminated] *that everyone understands that's actually* **not** *factual*."

That now appears to have been another probable lie, because two days later on September 19, the Board published its set of agenda's for meetings the week of October 23, including entirely new procedures to request an ADA accommodation to seek remote call-in permission did **not** include. The new process only for people with disabilities seeking reasonable accommodation was made *entirely* **contingent** on whether a disabled person would be willing to publicly divulge the exact nature of their specific disability to Board of Supervisors "*Disability Inquisition Screening*" staff.

"Supervisor Walton falsely tried to pull the wool over our eyes, claiming:

'… *we are not eliminating remote public comment for people who have disabilities, for people who are seniors, and for people who are not capable of coming in* [to Board Chambers] …'

That now appears to have been another probable lie."

Walton had tried hard by claiming there won't be negative effects. But of course there are: Despite Walton's lie, senior citizens who **don't** have a disability **are** negatively affected. There's no process for them to request reasonable accommodation not covered by the ADA. People who aren't capable of coming in — say a working mom, or a student taking classes — who can't take two to three hours to come to City Hall to make one-, two-, or three-minute in-person testimony **are** negatively affected because there's no process for them, either.

As much as Walton may not want anyone creating a narrative seniors without disabilities and those unable to attend in person are **not** having rights previously granted now taken away, I'm here as the first (but surely not the only) person to say, "*I'm here to create that narrative*" … because it's a **fact** those rights were eliminated.

"New procedures published on September 19 to request an ADA accommodation are *only* for people with disabilities seeking an accommodation — made *entirely* contingent on whether a disabled person would be willing to publicly divulge the exact nature of their specific disability.

There were no provisions for seniors or for people not capable of coming to Board chambers.

Although Walton had tried hard by claiming there won't be negative effects, of course there are."

Tellingly, Walton blabbed that the Board knows they receive calls from Florida and Texas. They can only know that because the technology used by all San Francisco policy bodies displays all remote caller's phone numbers on current broadcast and computer equipment. San Francisco's City Attorney's Office should be able to access that data and prosecute actual hate speech when justified.

Full Board Passes Peskin's Nonsense

Before the Clerk of the Board took a Roll Call vote, notably there was not a peep of discussion from the other six Supervisors — Hillary Ronen, Rafael Mandelman, Catherine Stefani, Connie Chan, Ahsha Safai, and Matt Dorsey — sitting there like bumps on a log.

None of the 11 Supervisors mentioned the City employee who had bravely spoken the day before, who had concluded: "*We can* [currently] *cut people* [callers] *off. Period*." All 11 likely knew that the employee had essentially pulled the rug out from under Peskin's flawed rationale, and Peskin's anti-democratic legislation was entirely bogus and unnecessary. Sadly, Peskin's bogus rationale belied current available remedies. It was pure bullshit.

Receiving an eight-to-three Roll Call vote, Peskin got his victory — with Preston, Engardio, and Melgar bravely dissenting.

"Receiving an eight-to-three Roll Call vote, Peskin got his victory. It was a dark day, and an ugly stain on San Francisco's history."

The vote was a dark day, and an ugly stain on San Francisco's history. It was a day when the racists and antisemites won, effectively shutting down democracy for thousands of San Franciscans. Apparently eight of our Supervisors felt no shame in doing so, letting the bad guys win.

My Records Request and Responses

On Tuesday October 17, prior to the start of the Board's 2:00 p.m. meeting to consider Peskin's legislation I submitted a records request to Board Clerk Calvillo and "courtesy copied" Peskin.

My records request asked for a numbered list of each and every remote "Zoom Bombing" or remote "Webex" incident during Board of Supervisors and Board Committee meetings, and a separate breakout of any disruptive incidents by people attending meetings in person in Board chambers, including the date of each incident, which forum had been interrupted, the meeting name (full Board vs. Committee), the type of violation (hate speech, verbal abuse of staff or public figures, etc.), and any "*interventions*" taken by Board staff **during a given meeting** to end abusive speech or hate speech, cutting off the speaker's microphone in Board Chambers, immediate disconnection of the violator's Webex connection, muting of remote callers, etc.). I asked for the total number of such incidents since March 2020.

> **"I submitted a records request seeking a numbered list of all disruptive incidents by people attending meetings in person in Board chambers since March 2020.**
>
> **The Board of Supervisors responded saying '*Our office does not have any records that contain a list or tally of*' incidents.'**
>
> **For all we know, there may well have been just a single '*hate speech*' incident on September 26 behind Peskin's knee-jerk over-reaction."**

Calvillo's office responded saying "*Our office does not have any records that contain a list or tally of*" incidents, essentially inviting me to review the published meeting minutes of every Board and Committee hearing held since 2020 and inviting me to review SFGOV-TV videotapes of each of those meetings. I guess so that I could tally the number of such incidents myself. [Of note, Calvillo routinely cuts off speakers who talk off-topic to any agenda item at hand, but that's quite different from cutting off a speaker making on-air racial slurs or antisemitic remarks, and other forms of hate speech.]

Upshot: For all we know, there may well have been just a ***single*** "*hate speech*" incident on September 26 behind Peskin's knee-jerk decision to end all remote public comment, since the Clerk's Office doesn't maintain a running tally of such incidents.

Draconian New "Accommodation" Process

From here on out, only people with a City-verified disability who "*require remote access as a **means of reasonable accommodation** under* [the] "*ADA*" (Americans With Disability Act) [*emphasis added*], will be permitted to call in remotely. And in order to do so, they'll have to "*out*" just what their disability entails.

Starting with all Board and Committee meeting agenda's published after October 19, agenda's now bury in the fine print reads, in part: "*If you require remote access as a means of reasonable accommodation under ADA, please contact the Clerk's Office to request remote access, including a description of the functional limitation(s) that precludes your ability to attend in person*."

> **"'*If you require remote access as a means of reasonable accommodation under ADA …* [include] *a description of* [your] *functional limitation(s) that precludes your ability to attend in person*'. Kiss HIPAA goodbye."**

Now, disabled people who want to participate remotely by calling-in to speak must disclose their medical conditions publicly as the price of "*admission*." They must kiss goodbye their medical records protections under HIPAA.

An entirely new ADA section was added to all agenda's after Peskin's legislation passed on October 17. It never existed before the COVID pandemic descended in March 2020, or after the Board first adopted its remote-Webex call-in system. And for the past three years, the remote participation process never required remote callers to seek accommodation permissions beforehand, nor required caller's self-disclose descriptions of their disability.

Will I have to reveal ***all*** of my medical conditions to the Board of Supervisors' ***Medical Records Inquisition Staff*** if I seek accommodation to participate via call in? Does controlling old-age urinary incontinence qualify as a disability? Would that

count? What about other non-disabled seniors with incontinence "*issues*"? Does the San Francisco Inquisition deserve to learn this? Will it be *leaked* to the media, no pun intended?

Accommodation requests must now be made at least 48 hours in advance of any given meeting, which is ridiculous since the Sunshine Ordinance and the Brown act provide that meeting agendas only have to be posted 72 hours in advance of meetings. That means people seeking accommodation will have just 24 hours to make arrangements.

In the end, even though I consider myself disabled by other medical conditions, as a matter of *equity* I have to wonder whether I should continue to use ADA accommodation exceptionalism privileges when I know my neighbors who aren't disabled — and one who is a single Turkish working mom and Uber driver who can't afford taking off work for two hours to attend meetings in person — are denied the same opportunity I might obtain, only because of multiple disabilities.

Importantly, neither Peskin nor any of the other seven Supervisors who passed ending remote public comment in order to silence antisemitic hate speech said one word about how ending remote public comment will affect elderly, non-disabled Jewish San Franciscans, given Supervisor Walton's falsehoods.

I wonder how many of San Francisco's Jewish seniors who ***aren't*** disabled will inequitably be harmed by eliminating remote public comment.

Where Do We Go From Here?

I'll advocate through my membership with the ACLU and California's First Amendment Coalition (FAC) asking they do whatever they can to block attempts by Peskin and his colleagues to amend California's State constitution — or change the Brown Act, CPRA, and San Francisco's Sunshine Ordinance — to eliminate anonymous public comment, attempts to require speakers pre-register to speak and provide proof of their real names, or have to reveal the root cause of their disability in order to be granted ADA accommodation to call in remotely. That would devolve into authoritarian State Police. Peskin must surely know this.

After all, these laws and the U.S. constitution guaranteeing Freedom of Speech should not be misconstrued as being mere *speed-bump* impediments to be navigated around for a legitimate but aspirational goal of curbing and eliminating hate- and antisemitic-speech in our Public Square.

> **"These laws and the U.S. constitution guaranteeing Freedom of Speech should not be misconstrued as being mere *speed-bump* impediments to be navigated around for the aspirational goal of eliminating antisemitic-speech."**

Most Americans find antisemitism, racism, and other hate-speech abhorrent. They certainly have no place in San Francisco.

An MSNBC columnist just reminded us, though:

> "*In a time when Jewish Americans are facing* **real** *threats, diluting the meaning of the term* 'antisemitism' *is dangerous*."
>
> — **Dean Obeidallah**, MSNBC Columnist, November 3, 2023

As noted above, whether the two offensive comments made on September 26 rose to the working definition of *antisemitism* adopted in 2016 may be an open question for Jewish scholars, ***not*** Supervisor Peskin, San Francisco's Board of Supervisors, San Francisco City Attorney David Chiu, or Mayor London Breed — particularly if the Board of Supervisors diluted the meaning of the term "*antisemitism*" and took the comments out of context to justify its rush to end taking remote public comment and remote participation.

> **"Whether the two offensive comments made on September 26 rose to the working definition of *antisemitism* adopted in 2016 may be an open question for Jewish scholars — particularly if the Board of Supervisors diluted the meaning of the term *antisemitism*, and took the comments out of context to justify ending taking remote public comment."**

Postscript: Mayor Breed Expects All Boards to Fall in Line

As I predicted at the beginning of this article, it didn't take long for Peskin's premature anti-democratic ending of remote public participation to spread to other Boards, Commissions and policy bodies in San Francisco. After all, Peskin had opened up a slippery slope that, indeed, quickly proved to be very slippery.

"As I predicted at the beginning of this article, it didn't take long for Peskin's premature anti-democratic ending of remote public participation to spread to other Boards, Commissions and policy bodies in San Francisco.

Peskin had opened up a slippery slope that, indeed, quickly proved to be very slippery."

Just 14 days after the Board of Supervisors passed Peskin's change to Board Rules on October 17, the San Francisco Employees' Retirement System (SFERS) prepared a recommendation on October 31 to revise its own policy on taking remote public comment during SFERS Board meetings, which will be considered for adoption by its Board of Trustees on November 8.

The SFERS recommendation states as its rationale that "***The Mayor's Office recommended that all commissions adopt the BOS's rule****. It is up to each board/commission whether to continue remote public comment*." Breed wants all policy bodies to blindly play "*follow the leader*," regardless of whether there had been any hate speech violations during meetings of other bodies. The Retirement Board will consider one of two options: (1) Continue with current practices, or (2) Approve a change in practices to align with the other City Boards and Commissions, the actions of the BOS and **guidance by the Mayor**.

SFERS is expected to adopt Option #2.

In other words, SFERS is **not** considering changing its remote meeting participation procedures because callers had been making antisemitic or racist comments. It's unknown whether any remote meeting participants had ever engaged in hate speech during SFERS Board meetings. SFERS probably uses the same Webex system that is already capable of instantly disconnecting offensive caller's phone connections.

"SFERS is *not* considering changing its remote meeting participation procedures because callers had been making antisemitic or racist comments.

Instead, SFERS is considering ending remote participation of retirement system beneficiaries based on the whims of Supervisor Peskin and an edict from Mayor London Breed."

Instead, SFERS is considering ending remote participation of retirement system beneficiaries — many of whom have a personal stake in participating in the decision-making affecting their own retirement benefits, and many of whom have mobility limitations making in-person attendance at its Market Street offices problematic — based on the whims of Supervisor Peskin and an edict from Mayor London Breed. SFERS expedited taking swift action because Supervisor Ahsha Safai is the Board of Supervisors appointee as a voting member of SFERS Board of Trustees.

The SFERS meeting agenda for November 8 does not yet list the exact requirements for people with disabilities to qualify for remote public comment under the ADA. So, it's not yet known if those callers will also have to self-disclose the exact nature of their disability to SFERS own "*Inquisition Screening Staff*." They will probably have to, given the procedure the Board of Supervisors adopted for itself.

Monette-Shaw is a columnist for San Francisco's Westside Observer *newspaper, and a member of the California First Amendment Coalition (FAC) and the ACLU. He operates stopLHHdownsize.com. Contact him at monette-shaw@westsideobserver.com.*